IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

FIRST APPEAL NO.3175 OF 2006

Shri Bhairu Nivruti Jadhav — Appellant
vs.
Shri Vilas Baban Abhang & anr. — Respondents

Mr.T.S.Mendon for the appellant.

Mr.N.G.Ghotekar with Ms.Sheema V. Ghotekar for respondent no.2.

CORAM : ANOOP V. MOHTA,J.

DATED : 7th August, 2007

P.C.

The appellant, who withdrew his application No.655/1999 from the Motor Accidents Claims Tribunal, Pune by application dated 19.1.2002 contending that the appellant may be permitted to withdraw the present application and to file claim under the provisions of the Workmen's Compensation Act (WC Act). On the same day, the said application was allowed to be withdrawn.

2. The appellant, therefore, had preferred W.C.Application No.34/2002 before the 3rd Labour Court, Pune for grant of compensation as a driver he was working in the vehicle with opponent no.1. As accident arose during the course of his business, therefore, the application for compensation.

3. The learned Judge of the 3rd Labour Court by the impugned order dated 14.9.2006 has rejected the said application on the ground of delay. Therefore, the present appeal.

4. Considering the fact that the initial application as referred above was withdrawn is the specific averment and the Court had granted the said application and therefore the delay in filing the application before 3rd Labour Court at Pune could not have been rejected without considering Section 14 of the Limitation Act. The parties are fully aware of the application filed and the reason for withdrawing the earlier claim application from the Court of Motor Accidents Claims Tribunal.

5. The rejection of the application on the ground of delay as well as on the ground of non-filing of such application for condoning the delay, in the facts and circumstances of the case, is no good reason to reject the application of claim as filed. The appellant cannot be deprived of his right to claim the compensation from both the Courts in such fashion. The claim of the appellant, therefore, need to be considered on merits.

6. Consequently, the present first appeal is allowed. The impugned order dated 14.9.2006 passed by the learned

Judge of the 3rd Labour Court, Pune is quashed and set aside and the matter is remanded back. The learned 3rd Labour Court is requested to decide the matter on all the issues as framed as expeditiously as possible as the claim of the appellant is pending since 1999.

7. No costs.

[ANOOP V. MOHTA,J.]